

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

M.D., b/n/f Sarah R. Stukenberg, et al.,	§	
	§	
Plaintiffs,	§	
v.	§	
	§	
GREG ABBOTT, in his official capacity	§	Civil Action No. 2:11-CV-00084
as Governor of the State of Texas, et al.,	§	
	§	
Defendants.	§	

Monitors' Update to the Court Regarding Children Without a Placement

A. Background

The Department of Family and Protective Services (DFPS) reports the number of children in Permanent Managing Conservatorship (PMC) without placements to the Monitors on a weekly basis. In its reports, DFPS provides information about all PMC children who were without placements the prior week, including details about their individual characteristics (age, sex, level of care), their care team (caseworker, supervisor, region and county), and the period without placement (first night without placement, treatment needs and diagnoses, other characteristics and location of the children).¹

B. Overview

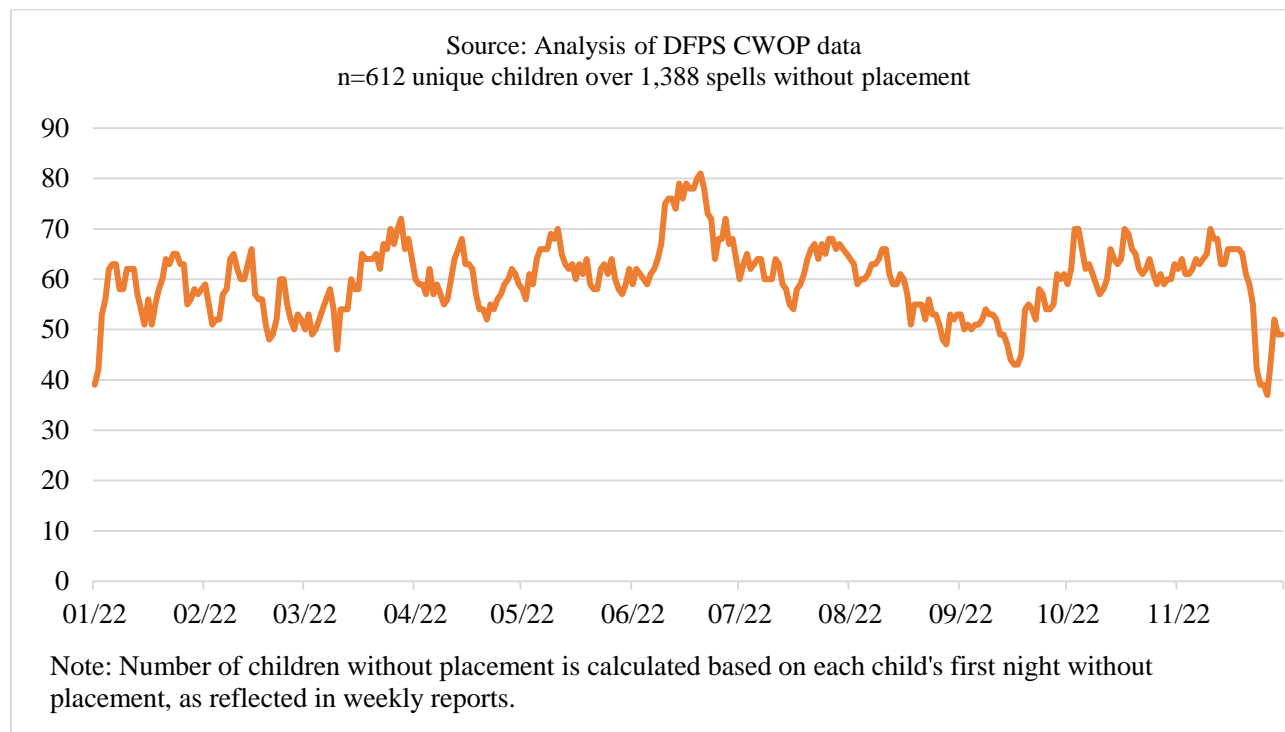
On average in 2022, from January 1, 2022 through November 30, 2022, 60 children were without placement on a given night, with a maximum of 81 children (which occurred on June 20, 2022).² The lowest number of children without placement on a given night was 37 (which occurred on November 26, 2022). At the beginning of the year in January 2022, an average of 57 children were

¹ DFPS often first reports children to the Monitors the day after their first night without placement. Therefore, the number of children without placement reflected in the weekly reports tends to be lower than the actual number of children without placement on a given night as calculated when using the data DFPS provided about a child's first night in placement. Beginning in September 2021, DFPS started providing the Monitors the information in an updated format which typically includes more detailed information about the children; for example, the reports have more information about their medical needs and/or diagnosis than during the prior reporting period.

² During the prior period of January 2021 through June 2021, the highest number on any one night was 124 children on June 24, 2021 and the average per night was 61 children. Deborah Fowler & Kevin Ryan, The Monitors' Update to the Court Regarding Children Without Placement Housed in CPS Offices, Hotels, and Other Unlicensed Settings 4, ECF No. 1132 (September 13, 2021).

without placement per night and at the end of the period in November 2022, the average was similar at 58 children; that number fluctuated in between with the highest monthly average at 70 children per night in June.

Figure 1: Children Without Placement by Day (January 1, 2022 - November 30, 2022)



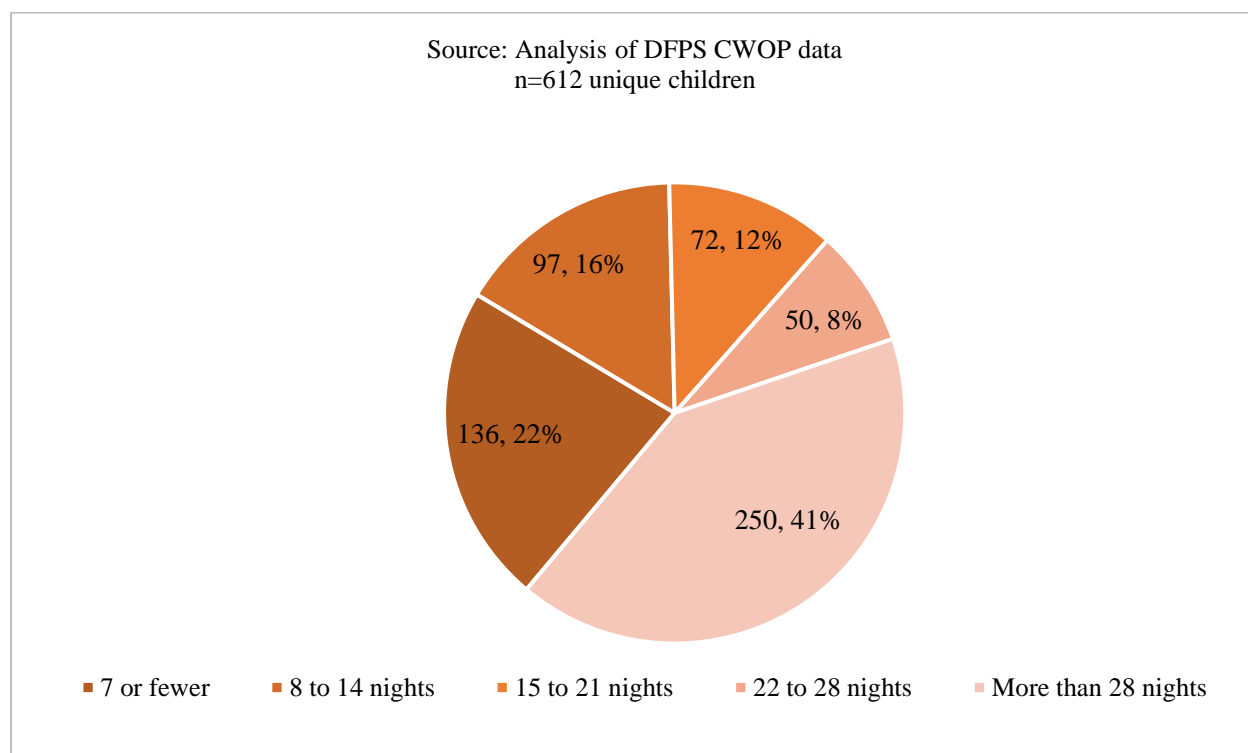
Over time, the number of PMC children without placement has also fluctuated: on average, 61 children were without placement per night for the period of January 2021 through June 2021, mostly due to a steady increase during that six-month period.³ The average per night was 86 children during the second half of 2021, from July 1, 2021 through December 31, 2021 before decreasing to an average of 60 children from January 1, 2022 to November 30, 2022.

³ The average monthly number of children who were without placements climbed from 22 children in January 2021 to 106 by June 2021. Deborah Fowler & Kevin Ryan, The Monitors' Update to the Court Regarding Children Without Placement Housed in CPS Offices, Hotels, and Other Unlicensed Settings 4, ECF No. 1132 (September 13, 2021).

Six hundred twelve unique children experienced at least one night without placement from January 1, 2022 through November 30, 2022. Most children (34%, 208) experienced a single spell without placement; 20% (123) had two spells without placement; 13% (79) had three spells without placement; 8% (50) had four spells without placement; 9% (55) had five spells without placement; 4% (26) had six spells without placement; and 12% (71) had seven or more spells without placement.⁴

The average spell without placement lasted 15 nights, with the longest spell lasting 204 nights, an increase from the previous reporting period.^{5,6} The average number of nights without placement per child (i.e., combining the length of all spells without placement during the period) was 34 nights, with a maximum of 257 nights. Almost 77% of the children without placement during this period experienced more than seven total nights without placement and 41% (250) experienced more than four weeks without placement.⁷

Figure 2: Total Nights Without Placement per Child (January 1, 2022 – November 30, 2022)⁸



⁴ Four children (<1%) had 20 or more spells without placement.

⁵ This figure does not include the current spells for the 48 children without placement on the last day of the period, November 30, 2022.

⁶ In the previous report, the average spell without placement lasted 14 nights, with the longest spell lasting 144 nights. Deborah Fowler & Kevin Ryan, The Monitors' Update to the Court Regarding Children Without Placement Housed in CPS Offices, Hotels, and Other Unlicensed Settings 5, ECF No. 1132 (September 13, 2021).

⁷ This figure does not include the current spells for the seven children without placement on the last day of the period who did not have a previous spell.

⁸ The graph does not include the current spells for the seven children (1%) without placement on the last day of the period who did not have a previous spell.

C. Profile of children without placement

Demographics

The majority (89%, 543) of children without placement during the period were teenagers. The youngest child was six at the time a spell began and the oldest children were 17 years old.⁹ More than half (53%, 324) of the children without placement during the period were female – higher than the share of females in the broader PMC population (48% on November 30, 2022).¹⁰ The vast majority of females without placement were teenagers (ages 13 to 17) (87%, 281) and 62% (202) were older teens aged 15-17. Male children without placement during this period were similarly aged: 91% (262) were teenagers and 72% (207) were older teens aged 15-17.

Characteristics and Needs

DFPS described multiple treatment needs and other characteristics for the children it reported during this period.¹¹ These children typically have experienced multiple placements; frequently the children's mental health needs and underlying trauma have not been effectively addressed in the numerous placements that accepted them.¹²

The most common corresponding characteristics or treatment needs that DFPS identified were as follows: history of physical aggression (550 children, 90%); history of mental health diagnosis (506 children, 83%); and history of psychiatric or mental health hospitalization (494 children, 81%).¹³

⁹ This figure includes four children that exited care on their 18th birthdays and one child who exited the day after their 18th birthday.

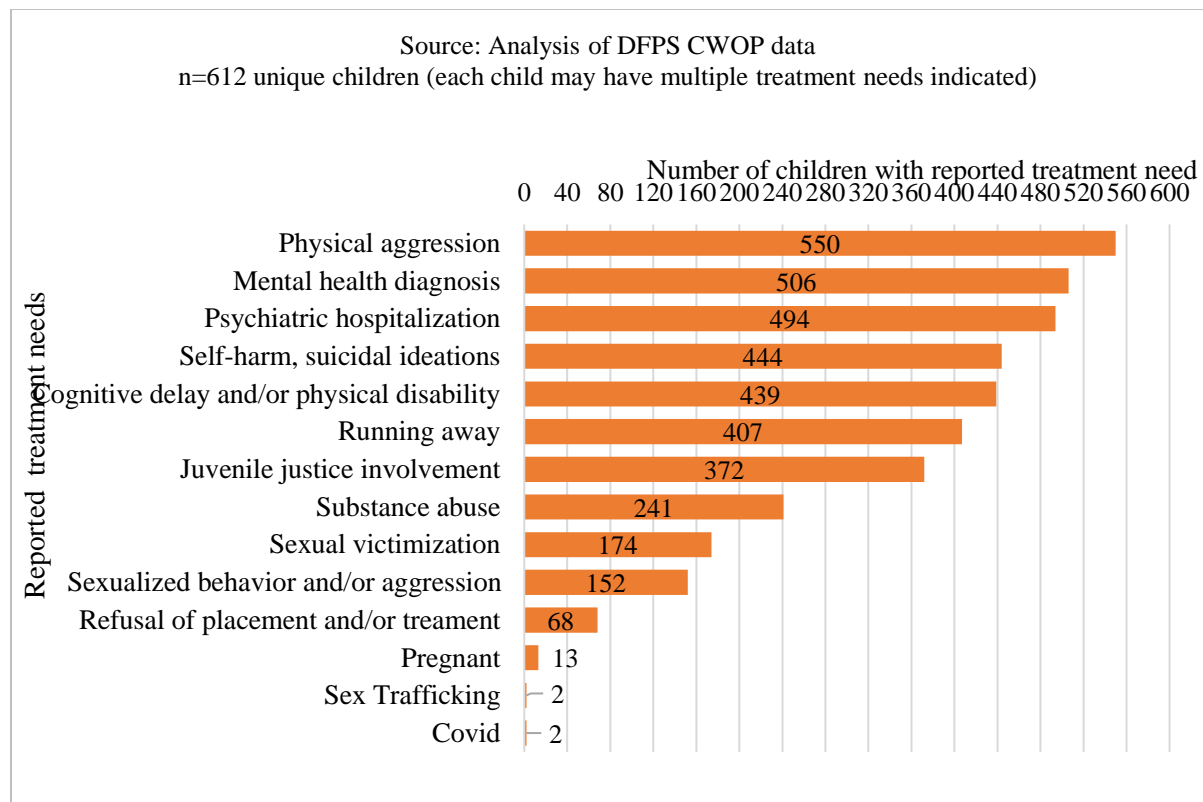
¹⁰ DFPS, *RO.Inj_PMC_Children_List_2022_11d2023_01_02_log108118* (January 2, 2023) (on file with the Monitors).

¹¹ DFPS included treatment needs and characteristics for all children without placement. Unless otherwise noted, percentages are calculated out of 612.

¹² See Deborah Fowler and Kevin Ryan, The Court Monitors' Report to the Court Regarding Maltreatment in Care and Unsafe Placements for Children Without a Placement 7-8, ECF No. 1066 (April 27, 2021); Deborah Fowler and Kevin Ryan, The Court Monitors' Update to the Court Regarding Conditions at Devereux – League City Residential Treatment Center, ECF No. 1027 (February 8, 2021) (detailing the experience of two children, A.A. and B.B.).

¹³ The monitoring team coded the text descriptions provided by DFPS using categories derived from the Common Application for Placement of Children in Residential Care as appropriate. As noted previously, DFPS updated their reporting as to treatment needs and characteristics of children in their data reports to the Monitors during this period, resulting in more robust reporting of mental health diagnoses and cognitive and physical function.

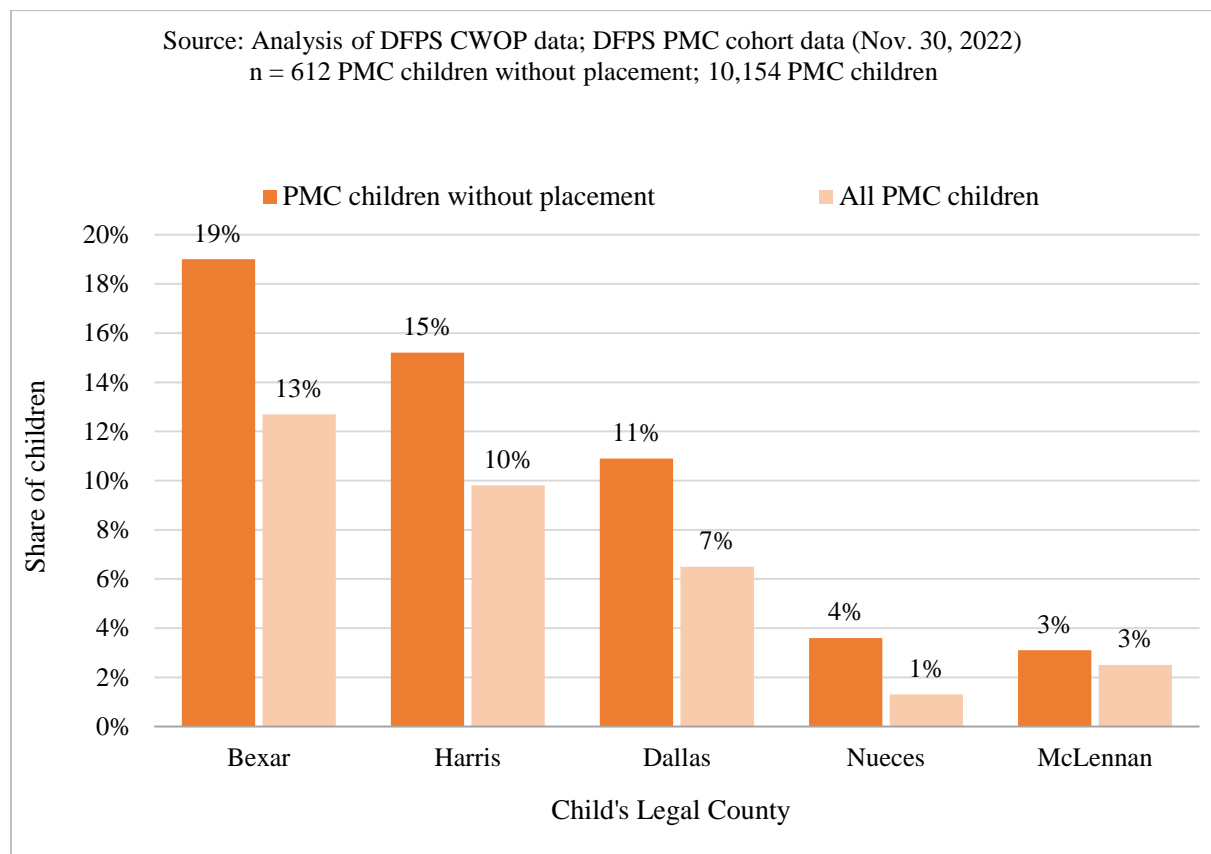
Figure 3: Number of Children with Corresponding Treatment Needs (January 1, 2022-November 30, 2022)



D. Geography and Location

Over 50% of children without placement were reported from five counties: Bexar (19%, 116) Harris (15%, 93), Dallas (11%, 67), Nueces (4%, 22) and McLennan (3%, 19). However, children experienced spells without placement in 89 different counties.

The top two legal counties (Bexar and Harris) are the same among the broader PMC population. However, children without placement have a larger representation from Dallas, Nueces, and McLennan County as compared to the PMC population.

Figure 5: Legal County for Children Without Placement Compared to PMC Population

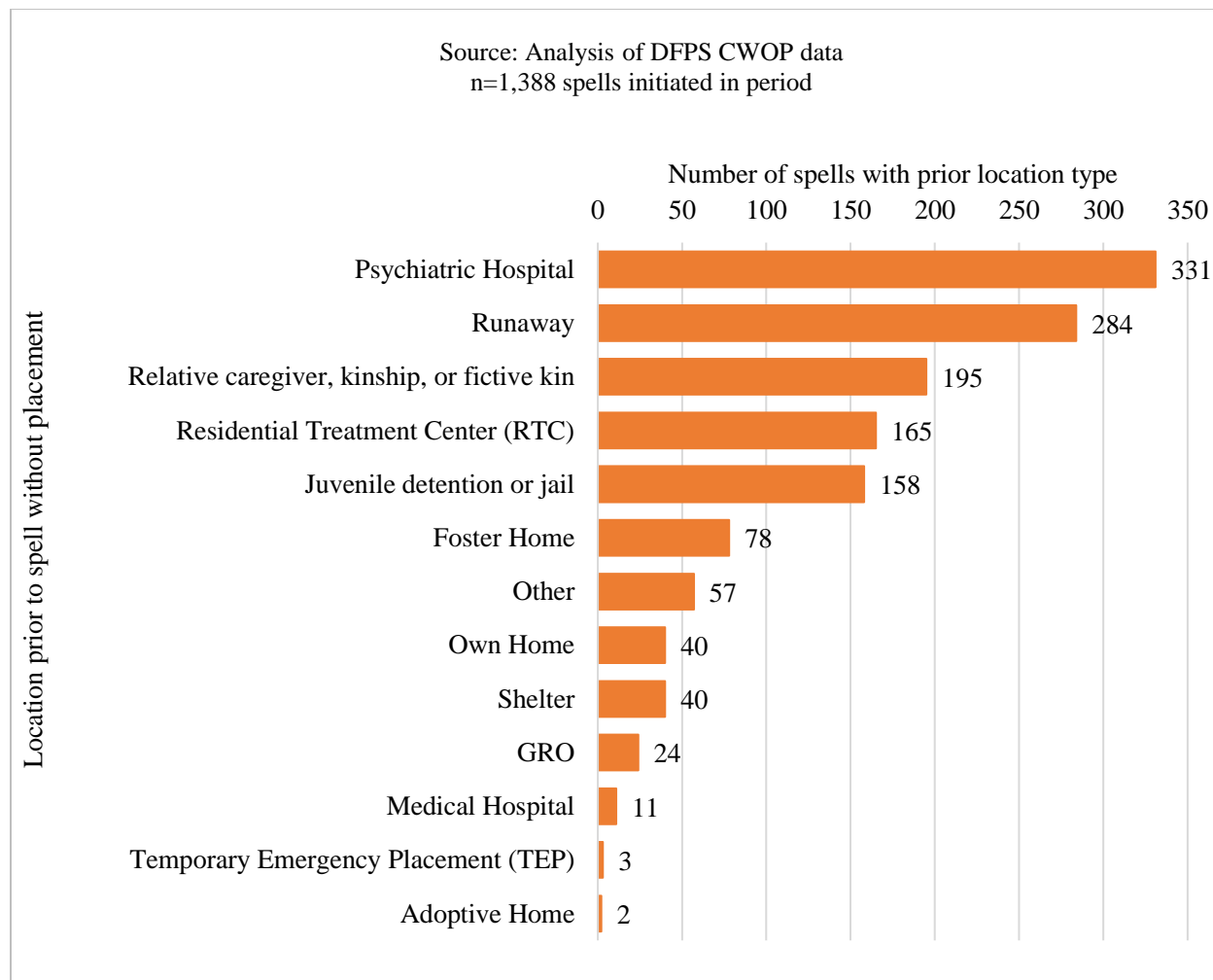
The majority of children were under the care of DFPS (98%, 600), with 2% under the care of an SSCC: OCOK (2%, 11), and St. Francis (<1%, 1).¹⁴

DFPS reports a child's location prior to a spell without placement. According to this data, 24% (331) of spells occurred after a stay in a psychiatric hospital, 20% (284) occurred after a child ran away from a placement,¹⁵ 14% (195) occurred after a stay at a relative caregiver, kinship, or fictive kin placement, and 12% (165) occurred after a stay at a Residential Treatment Center as shown below.

¹⁴ Of the total population of 10,154 PMC children, 16% (1604) are under the care of SSCCs as of November 30, 2022. Two SSCCs did not have any children without placement in their care: 2iNgage and Belong.

¹⁵ The data does not indicate from which type of placement a child ran away.

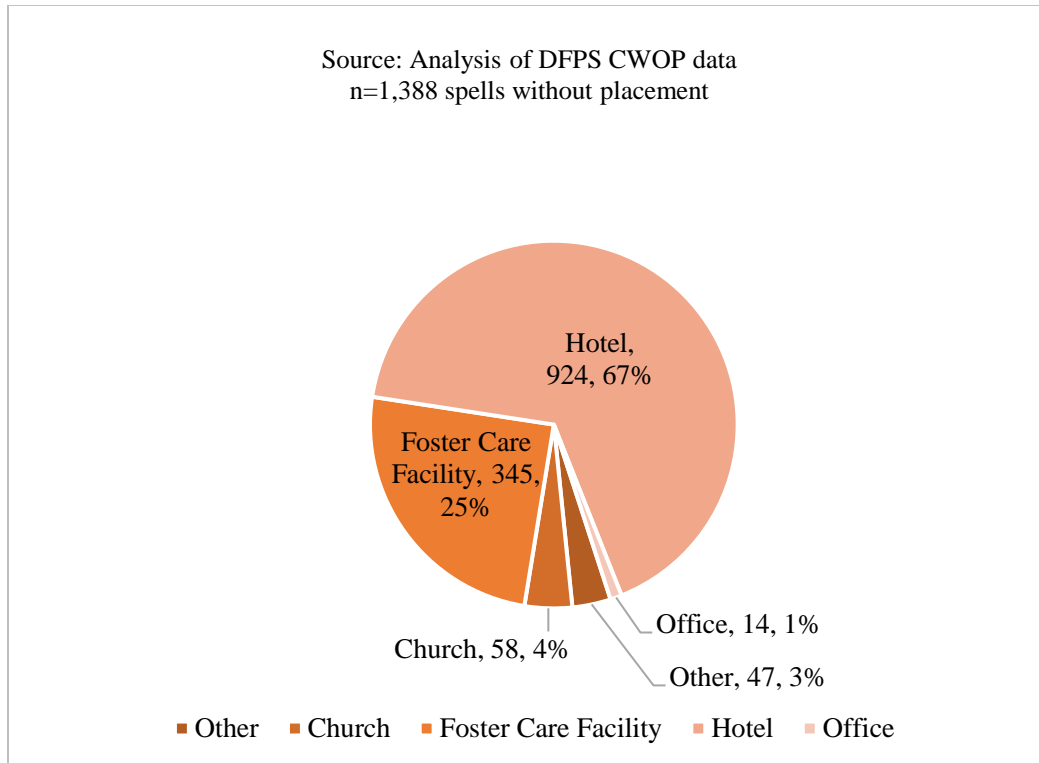
Figure 6: Child Location Prior to Spell Without Placement (January 1, 2022 - November 30, 2022)



When children experienced nights without placement, DFPS reported that children were held at hotels (67%, 924); various foster care facilities (25%, 345); churches (4%, 58); and DFPS Child Protective Services (CPS) offices (1%, 14).¹⁶ After the Family Code was amended in June 2021 to prohibit the use of DFPS Offices to house children, hotels became the most frequent location instead of DFPS Offices.

¹⁶ Effective June 14, 2021, DFPS may no longer allow a child to stay overnight in a department office. TEX. FAM. CODE §264.1071.

Figure 7: Child Location During Spell Without Placement (January 1, 2022 - November 30, 2022)¹⁷



¹⁷ The category of “other” includes four residential addresses.